IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR. H.L.DATTU

and

THE HONOURABLE MR. JUSTICE K.T. SANKARAN

THURSDAY, THE 9TH OCTOBER, 2007/17TH ASWINA, 1929

W.A. No. 2399 of 2007

(Against the Judgment dated 11/04/2007 in
W.P.(C) N33794/06)

Appellant/Petitioner:

P.A. Abdul Rasheed,
S/o.Abdul Rahiman, aged 42 years,
Pee Vee Electra World, M.G.Road,
Link Horizon, Marine Drive, Cochin.

By Adv. Sri. P. Sathisan.

Respondents/Respondents:

1. Secretary, Local Administration,
Secretariat, Thiruvananthapuram.

2. Secretary,
representing the Greater Cochin Development Authority,
Kadavanthra, Kochi - 20.

3. Manuel Vivera,
Secretary,
Greater Cochin Development Authority,
Kadavanthra, Kochi - 20.

R1 by Senior Govt. Pleader Smt. K.Meera.
R2 & R3 by Standing Counsel Sri. K.P. Dandapani (Sr.).

This Writ Appeal having come up for admission on 9/10/2007 the Court on the same day delivered the following:

dk.

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A. No. 2399 of 2007

Dated this, the 9th day of October, 2007.

JUDGMENT

H.L. DATTU, C.J.

Disturbed by the order passed by the learned Single Judge in W.P.(C) No.33794 of 2006, dated 11th April, 2007, petitioner is before us in this appeal.

2. Appellant/petitioner is an allottee of certain shop rooms. The said allotment was made by the respondent Authority without following the due procedure prescribed under the Act and Rules.

3. The respondent has now issued a tender notification inviting applications for allotment of shops, bearing Nos. B1207, B1208, B1209, B1210, B1307 and B1308 at Jawaharlal Nehru International Stadium, Kaloor. Aggrieved by the said tender notification, appellant/petitioner is before this Court in W.P(C) No.33794 of 2006. Learned Single Judge, after noticing that the allotment made in favour of the petitioner by the respondent Greater Cochin Development Authority ('GCDA' for short) is without inviting any application or tender or by issuing any public notice, has observed that such allotment is not only illegal but also arbitrary and further contrary to the observations made in the earlier batch of writ petitions, has thought it fit to quash the allotment made and further has directed the GCDA to issue appropriate tender notification inviting applications from the public for allotment of shops at Jawaharlal Nehru International Stadium, Kaloor. Pursuant to the said direction, the respondent has issued the present tender notification inviting applications from the public for allotment of shops at Jawaharlal Nehru International Stadium, Kaloor. Aggrieved by the said tender notification, petitioner was before this Court.

4. The learned Single Judge, keeping in view the orders passed in the

earlier batch of writ petitions has only observed in his order that the tender notification that is issued by the respondents is pursuant to the orders and directions issued by this Court and, therefore, interference with the tender notification is not called for. Accordingly, the learned Single Judge has rejected the writ petition. Aggrieved by the said order, petitioner is before us in this appeal.

5. Learned counsel, Sri.P.Sathisan, appearing for the appellant would submit that the appellant is an allottee of certain shops at Jawaharlal Nehru International Stadium, Kaloor. It is also stated that the appellant is regular in paying the monthly rentals to GCDA and, therefore, according to the appellant, the respondent could not have issued any tender notification for allotting the shops, bearing Nos. B1207, B1208, B1209, B1210, B1307 and B1308.

6. Sri.K.P. Dandapani, learned counsel appearing for GCDA, would submit that this Court had taken exception to the allotment made by GCDA in favour of number of persons. In fact, this Court had directed GCDA to issue appropriate tender notification inviting applications from the public for allotment of shops and pursuant to such a direction, the present tender notification is issued for allotment of shops at Jawaharlal Nehru International Stadium, Kaloor Therefore, submits that the tender notification issued by the respondent is in accordance with law and also pursuant to the direction issued by this Court in the earlier batch of Writ Petitions.

7. One and the only question that would arise for our consideration and decision is, whether the respondent is justified in issuing the tender notification inviting applications from the public for allotment of shops at Jawaharlal Nehru International Stadium, Kaloor.

8. The respondent does not dispute that they had made allotment of certain shops at the Jawaharlal Nehru International Stadium, Kaloor without inviting applications by issuing appropriate tender notification. The learned Single Judge has taken exception to such allotments on the ground that the respondent Authority without inviting applications from the public, could not have adopted a method of "pick and choose" to allot shops in favour of their blue eyed boys. Therefore, the learned Single Judge has thought it fit to direct the respondent to issue appropriate tender notification for allotment of shops. Pursuant to such a direction, the respondent has issued the present tender notification. Since the tender notification so issued is pursuant to the directions issued by this Court, in our opinion, the learned Single Judge is fully justified in rejecting the Writ Petition.

9. If, for any reason, the appellant claims that he is a tenant and the respondents cannot evict him by allotting the shops to some other persons, he can take up such defence to the notice issued by the respondents asking him to quit and deliver the vacant possession of the shops in his occupation.

10. With these observations and directions, the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L.DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

DK.